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June 28, 2019

**Via ECFS**

Marlene J. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street SW  
Washington, DC 20554

**Re: Commonwealth Edison Company's Motion to Dismiss for Lack of  
Jurisdiction (Proceeding Number 19-169, 19-170; Bureau ID Number  
EB-19-MD-004, EB-19-MD-005)**

Ms. Dortch:

Please find attached Commonwealth Edison Company's Motion to Dismiss for Lack of Jurisdiction in Proceeding Number 19-169, 19-170; Bureau ID Number EB-19-MD-004, EB-19-MD-005.

Sincerely,



Timothy A. Doughty  
Attorney for Commonwealth Edison Company

Enclosures

cc: Lisa Saks, Enforcement Bureau  
Adam Suppes, Enforcement Bureau  
Anthony DeLaurentis, Enforcement Bureau  
Rosemary McEnery, Enforcement Bureau

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

Crown Castle Fiber LLC, <i>Complainant,</i>	)	
	)	
	)	
	)	
	)	Proceeding Number 19-169
	)	19-170
v.	)	Bureau ID Number EB-19-MD-004
	)	EB-19-MD-005
Commonwealth Edison Company,	)	
<i>Defendant</i>	)	

**MOTION TO DISMISS FOR LACK OF JURISDICTION**

Pursuant to Section 1.729 of the Commission’s rules,<sup>1</sup> Commonwealth Edison Company (“ComEd”) respectfully requests that the Federal Communications Commission (“FCC” or “Commission”) dismiss with prejudice the Pole Attachment Complaints (“Complaints”) filed on June 19, 2019, by Crown Castle Fiber LLC (“Crown Castle”) in the above-captioned proceedings.

The FCC currently recognizes the State of Illinois as a state that has certified that it regulates pole attachments, and “[s]uch certificate shall be conclusive proof of lack of jurisdiction of this Commission” over a pole attachment complaint. 47 C.F.R. § 1.1405(a). Crown Castle’s arguments that Illinois regulation is incomplete are therefore irrelevant. They are also wrong. This is therefore one of the “few circumstances justifying the filing of a separate motion to dismiss.”<sup>2</sup>

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<sup>1</sup> 47 C.F.R. §1.729.

<sup>2</sup> *Rules Consolidation Order*, 33 FCC Rcd 7178, 7183, at ¶¶13 and 14.

**A. FCC Rules “Conclusively” Divest Jurisdiction Where, As Here, a State Certifies Its Own Regulation of Pole Attachments**

The federal Pole Attachment Act divides jurisdiction over pole attachments between the FCC and any State that certifies to regulate pole attachments and requires the FCC to defer to state regulation.<sup>3</sup> All of the poles at issue in these proceedings are located in the State of Illinois, and the Illinois Commerce Commission (“ICC”) has properly certified that it regulates pole attachments in the State.

Following section 224(c), the Commission’s pole attachment regulations require dismissal of complaints in circumstances where a State regulates pole attachments:

§ 1.1405 Dismissal of pole attachment complaints for lack of jurisdiction.

(a) The complaint shall be dismissed for lack of jurisdiction in any case where a suitable certificate has been filed by a State pursuant to paragraph (b) of this section. Such certificate shall be conclusive proof of lack of jurisdiction of this Commission. A complaint alleging a denial of access shall be dismissed for lack of jurisdiction in any case where the defendant or a State offers proof that the State is regulating such access matters. Such proof should include a citation to state laws and regulations governing access and establishing a procedure for resolving access complaints in a state forum. A complaint against a utility shall also be dismissed if the utility does not use or control poles, ducts, or conduits used or designated, in whole or in part, for wire communication or if the utility does not meet the criteria of § 1.1402(a) of this subpart.

(b) It will be rebuttably presumed that the state is not regulating pole attachments if the Commission does not receive certification from a state that:

(1) It regulates rates, terms and conditions for pole attachments;

(2) In so regulating such rates, terms and conditions, the state has the authority to consider and does consider the interests of the consumers of the services offered via such attachments, as well as the interests of the consumers of the utility services; and

(3) It has issued and made effective rules and regulations implementing the state's regulatory authority over pole attachments (including a specific

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<sup>3</sup> 47 U.S.C. §§224(c)(1) (“(c) State regulatory authority over rates, terms, and conditions; preemption; certification; circumstances constituting State regulation. Nothing in this section shall be construed to apply to, or to give the Commission jurisdiction with respect to rates, terms, and conditions, or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f), for pole attachments in any case where such matters are regulated by a State.”).

methodology for such regulation which has been made publicly available in the state).<sup>4</sup>

Illinois has, in fact, filed a “suitable certificate” pursuant to rule 1.1405(b), and such certification constitutes “conclusive proof” that Illinois has jurisdiction. The State of Illinois originally certified its regulation of pole attachments on April 5, 1978.<sup>5</sup> This certification stated:

The Illinois Commerce Commission of the State of Illinois does regulate rates, terms, and conditions for pole attachments to the poles, ducts, conduits, or right-of-ways owned or controlled by public utilities, as defined in the Illinois Public Utilities Act, and in so regulating such rates, terms, and conditions the State of Illinois through the Illinois Commerce Commission has the authority to consider and does consider the interests of the subscribers of cable television services in Illinois as well as the interests of consumers of utility services in Illinois.<sup>6</sup>

This is the precise language required by rule 1.1405(b)(1) and (2), except that Illinois is referencing “the interests of the subscribers of cable television services” rather than “the interests of the consumers of the services offered via such attachments.” This distinction is appropriate because at the time of Illinois’s certification, that was the precise language required.<sup>7</sup>

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<sup>4</sup> 47 C.F.R. § 1.1405.

<sup>5</sup> *In the Matter of Public Utility Pole Attachments for Cable Television Services Pursuant to Amendment of the Communications Act of 1934, Set Forth in Section 224(c) Paragraphs (1) and (2)*, Illinois Commerce Commission, 78-R4 (Apr. 5, 1978) (available at <https://ecfsapi.fcc.gov/file/7020456679.pdf>), attached hereto at Exhibit A.

<sup>6</sup> *Id.*

<sup>7</sup> Prior to the passage of the *1996 Act*, the language of Section 224(c)(2) included a reference to State authority to consider the interests of the subscribers of cable television services. That language was revised by the *1996 Act* to reference State authority to consider the interests of the subscribers of the services offered via [pole attachments]. Section 224(c)(2) originally stated:

Each State which regulates the rates, terms, and conditions for pole attachments shall certify to the Commission that –

- (A) it regulates such rates, terms, and conditions; and
- (B) in so regulating such rates, terms, and conditions, the State has the authority to consider and does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services.

The language was revised to the following:

Each State which regulates the rates, terms, and conditions for pole attachments shall certify to the Commission that –

As for Section 1.1405(b)(3), Part 315 of Title 83 of the Illinois Administrative Code governs the rates, terms and conditions applicable to cable television company attachments to electric utilities and local exchange telecommunications carriers.<sup>8</sup> By letter dated May 24, 1985, the Illinois Commerce Commission certified to the FCC as follows: “[T]he Illinois Commerce Commission has issued and made effective rules and regulations implementing this state’s regulatory authority over pole attachments. The attached rules, which include a specific methodology for such regulation, have been duly adopted by the Commission, filed with the Illinois Secretary of State, and made publicly available in Illinois.”<sup>9</sup> This again is the precise language required by rule 1.1405(b)(3).

The Commission itself has recognized that the ICC’s certification was suitable, by including Illinois on the list of the 20 states and the District of Columbia that have certified to the FCC that they regulate pole attachments. The FCC’s list recognizes that Illinois is among the 20 states and D.C. which:

have certified that they regulate rates, terms, and conditions for pole attachments, and, in so regulating, have the authority to consider and do consider the interests of subscribers of cable television services, as well as the interests of the consumers of the utility services. Moreover, these states have certified that they have issued and made effective rules and regulations implementing their regulatory authority over pole attachments, including a specific methodology for such regulation which has been made publicly available in the state.<sup>10</sup>

- 
- (A) it regulates such rates, terms, and conditions; and
  - (B) in so regulating such rates, terms, and conditions, the State has the authority to consider and does consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the utility services.

<sup>8</sup> 83 Ill. Adm. Code 315.10, *et seq.*

<sup>9</sup> See *WC Docket No. 10-101, States That Have Certified That They Regulate Pole Attachments*, State of Illinois, Illinois Commerce Commission, May 24, 1985 (available at <https://ecfsapi.fcc.gov/file/7020456531.pdf>), attached hereto at Exhibit B.

<sup>10</sup> *States That Have Certified That They Regulate Pole Attachments*, Public Notice, DA No. 10-893, 25 FCC Rcd 5541 (2010).

Since Illinois has filed a “suitable certificate” pursuant to Section 1.1405(b), Section 1.1405 requires that certificate to be “conclusive proof” that this Commission lacks jurisdiction.<sup>11</sup> The FCC’s list of certificated states confirms this for the State of Illinois by stating: “Certification by a state preempts the Commission from accepting pole attachment complaints under Subpart J of Part 1 of the Rules.”<sup>12</sup>

**B. Arguments that Illinois Regulation Is Incomplete Are Irrelevant and Wrong**

**1. Crown Castle’s Regulation Arguments Should Be Ignored**

Crown Castle’s arguments, identical in each of its complaints, that Illinois regulation is somehow incomplete are irrelevant under the FCC’s regulation, which treats a certification as “conclusive proof.”<sup>13</sup>

**2. In All Events, Crown Castle’s Arguments Are Incorrect: Illinois Regulates All Pole Attachments**

Crown Castle’s arguments concerning Illinois regulation are also incorrect, as the Illinois Public Utilities Act (“Illinois PUA”) and the applicable regulations easily cover these complaints. Crown Castle’s Complaints assert simply that “[t]he ICC’s pole attachment regulations do not apply to or make reference to attachments by telecommunications companies.”<sup>14</sup> But the Illinois PUA does cover telecommunications carriers’ attachments to electric companies’ poles. That Act gives the ICC jurisdiction over any “lease ... of ... any part of ... its ... plant, equipment, ... or other property.”<sup>15</sup> Thus, the state regulatory agency has

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<sup>11</sup> 47 C.F.R. §1.1405(a).

<sup>12</sup> *States That Have Certified That They Regulate Pole Attachments*, Public Notice, DA No. 10-893, 25 FCC Rcd 5541 (2010).

<sup>13</sup> 47 C.F.R. §1.1405(a).

<sup>14</sup> See Pole Attachment Complaint for Denial of Access, *Crown Castle Fiber LLC v. Commonwealth Edison Company*, Proceeding Number 19-169, Bureau ID Number EB-19-MD-004 (filed Jun. 19, 2019) at ¶17; Pole Attachment Complaint – Unlawful Rates, *Crown Castle Fiber LLC v. Commonwealth Edison Company*, Proceeding Number 19-170, Bureau ID Number EB-19-MD-005 (filed Jun. 19, 2019) at ¶16.

<sup>15</sup> 220 ILCS 5/7-102(A)(c) (“(c) No public utility may [without ICC approval or exemption] assign, transfer, lease, mortgage, sell (by option or otherwise), or otherwise dispose of or encumber the whole or any part of its franchises,

statutory authority to review pole attachments – for they are leases of public utility property. And, although the ICC’s rules do, in general, reference cable television system attachments, some of those provisions are broad enough to cover other attachments. Thus, 83 Ill. Admin. Code 315.30 refers to *all* situations “[w]here consent and approval of the Commission to a pole attachment or conduit agreement is required by Section 7-102 of the Act”<sup>16</sup> – and, as noted, section 7-102 creates ICC jurisdiction to all leases of public utility plant and equipment. Section 315.30 provides a mechanism through which any party complaining of a pole attachment agreement with an Illinois electric utility may bring the dispute to the ICC.<sup>17</sup> Indeed, the federal definition of a “pole attachment” (as amended in 1996) covers “any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility.”<sup>18</sup> Section 315.30’s simple reference to “pole attachments” is therefore broad enough to cover telecommunications companies (as the Illinois PUA does). And section 315.30(b) refers to a specific rate calculation. While that rate calculation (in 315.20) refers to cable television rates, nothing in 315.30(b) makes it inapplicable to other pole attachments.

This interpretation of Illinois law best protects the Illinois PUA and it flows directly from Congress’s and the FCC’s history of protecting state jurisdiction during the entire history of the Pole Attachment Act. From 1978 to 1996, “pole attachment” was defined as any attachment by a cable television provider to a pole, duct, conduit, or right-of-way owned or controlled by a

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licenses, permits, plant, equipment, business, or other property, but the consent and approval of the Commission shall not be required for the sale, lease, assignment or transfer (1) by any public utility of any tangible personal property which is not necessary or useful in the performance of its duties to the public, or (2) by any railroad of any real or tangible personal property.”).

<sup>16</sup> 83 Ill. Admin. Code 315.30(a) & (b).

<sup>17</sup> Due to an exemption in the Illinois PUA, the utility is not required to affirmatively file the leases for approval. 220 ILCS 5/7-102(E). But the regulations create a complaint procedure to invoke ICC jurisdiction.

<sup>18</sup> 47 U.S.C. § 224(a)(4).

utility.<sup>19</sup> With the passage of the *Telecommunications Act of 1996*, the Commission’s jurisdiction was broadened to include “access” to poles and to cover attachments not only by cable companies but also by telecommunications carriers.

When the *Telecommunications Act of 1996* was passed and the FCC’s jurisdiction expanded to cover “access” to poles and to cover attachments by telecommunications carriers, the statutory changes to Section 224 did not require the states to certify that they regulate “access” to poles or specifically that they regulate attachments by telecommunications carriers. And there was nothing in the *1996 Act* to require states that had certified previously that they regulate pole attachments to re-certify that they now regulate “access” to poles and that they now regulate attachments by telecommunications carriers. Nor was there any direction from the FCC to the states that they must re-certify. Accordingly, the ICC did not re-certify that it regulated pole attachments following passage of the *1996 Act*.

Neither did any other state.<sup>20</sup> While a handful of states (totaling only four) either re-certified, amended prior certifications, or filed to certify jurisdiction for the first time over pole attachments after the passage of the *1996 Act*, none of them re-certified after their initial certification specifically to address the expanded jurisdiction over attachments in the *1996 Act*. For example, the Massachusetts Department of Telecommunications and Cable updated its pole attachment certification in 2010 to share its pole attachment jurisdiction with the existing

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<sup>19</sup> *Id.* at (a)(4).

<sup>20</sup> On May 19, 2010, the FCC established Docket 10-101 to collect and maintain state pole attachments certifications and addenda. We checked all 264 entries in this docket and were unable to identify any that re-certified assertions of jurisdiction over pole attachments following the passage of the *1996 Act*. See *States That Have Certified That They Regulate Pole Attachments*, Public Notice, 25 FCC Rcd 5541 (2010).



Massachusetts Department of Public Utilities, but did not mention anything about covering “access” to poles or attachments by telecommunications carriers.<sup>21</sup>

Both Arkansas<sup>22</sup> and New Hampshire<sup>23</sup> filed to certify their jurisdiction over pole attachments after the passage of the *1996 Act*, but only certified that they adopted rules governing the rates, terms and conditions for pole attachments, consistent with the limited certification requirement in the statute.

Similarly, no re-certifications by any state appeared following the FCC’s decision in its April 2011 Pole Attachment Order that the Pole Attachment Act should be interpreted to give the FCC jurisdiction over attachments by incumbent local exchange carriers (ILECs) to electric utility poles.<sup>24</sup> The FCC’s newfound jurisdiction over these “joint use” agreements between ILEC and electric utility pole owners was at odds with the FCC’s previous understanding that it lacked such jurisdiction. Nevertheless, as with the *1996 Act*’s changes in jurisdiction, there was no direction given by the FCC to the states that they must re-certify that they have jurisdiction over such ILEC attachments, and no state submitted any such re-certification.

In short, Congress intended that Illinois’ certification that it regulates pole attachments has the effect of occupying the entire field of pole attachment regulation, so that the ICC has exclusive jurisdiction to regulate pole attachments, leaving no such regulation for the FCC. The fact that neither Congress nor the FCC required states to re-certify following the *1996 Act* and

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<sup>21</sup> See WC Docket No. 10-101, *States That Have Certified That They Regulate Pole Attachments*, Commonwealth of Massachusetts, Dept. of Telecommunications and Cable, Aug. 25, 2010 (available at <https://ecfsapi.fcc.gov/file/7020910618.pdf>).

<sup>22</sup> See *Arkansas Certification of Regulations of the Rates, Terms and Conditions of Pole Attachments*, Arkansas Public Service Commission, Oct. 20, 2008 (available at <https://ecfsapi.fcc.gov/file/7020460248.pdf>).

<sup>23</sup> See *Certification of State-Law Regulations of Utility Pole Attachments Pursuant to 47 U.S.C. § 224(c) and 47 C.F.R. § 1.1414*, State of New Hampshire, Public Utilities Commission, Jan. 23, 2008 (available at <https://ecfsapi.fcc.gov/file/7020456133.pdf>).

<sup>24</sup> *In the Matter of Implementation of Section 224 of the Act*, Report and Order and Order on Reconsideration, 26 FCC Rcd 5240, 5328 at ¶ 203 (2011).

the 2011 Pole Attachment Order, and that no state actually did re-certify, supports this interpretation. Indeed, to accept Crown Castle’s argument here would create substantial uncertainty over what had been a previously well-settled line between state and federal jurisdiction over pole attachment complaints in many states.

For these same reasons, Crown Castle’s reliance on a procedurally unusual letter from the prior ICC Chair, Brian Sheahan, dated October 25, 2018, is misplaced. That letter states that the Illinois regulations do not specifically mention “telecommunications companies.” As a threshold matter, the letter does not withdraw Illinois’ prior certification. But, more importantly, as explained above, the Illinois PUA does give the ICC authority over all pole attachments, including those sought by telecommunications companies. And section 315.30 of the ICC’s rules reference all “pole attachments” covered by the Act, which again includes telecommunications companies. And, finally, 315.30 refers to a rate formula embedded in the rules. As a result, even as to telecommunications companies, Illinois regulation does meet all of the requirements of the Pole Attachment Act and FCC regulations for effective state regulation.

The Pole Attachment Act reflects Congress’s interest in allowing states regulatory priority in this field. As the FCC has recognized, “The legislative history [of section 224] states that ‘The FCC shall defer to any State regulatory program operating under color of State law, even if debate or litigation at the State level is in progress ....’”<sup>25</sup> Thus, in the event there is any doubt of the ICC’s jurisdiction (though there should not be), the FCC should dismiss this complaint. Crown Castle may initiate a complaint with the ICC, which may determine the issue

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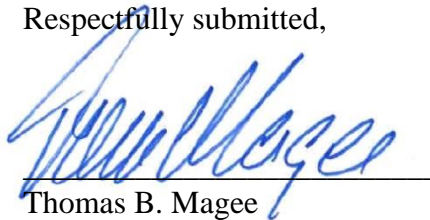
<sup>25</sup> *Adoption of Rules for the Regulation of Cable Television Pole Attachments*, First Report and Order, 68 FCC 2d 1585, 1601 (1978) (quoting S. Rep. No. 95-580, 95<sup>th</sup> Cong., 1<sup>st</sup> Sess., p. 17 (1977)), *aff’d*, *Monongahela Power v. FCC*, 655 F.2d 1254 (1981) (following subsequent administrative action).

definitively in a proper adjudicatory context. The federal law requires that the FCC allow the states to determine the matter in the first instance.

In sum, Crown Castle's Complaints should be dismissed for the reasons discussed above, because: (1) the ICC's certification was effectively made; (2) the FCC's list of certified states affirms that the FCC has no jurisdiction in Illinois; and (3) Section 1.1405 of the Commission's rules requires that Illinois's certification be "conclusive proof" the Commission lacks jurisdiction.

ComEd therefore respectfully requests that the Commission dismiss Crown Castle's Complaints.

Respectfully submitted,



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*Attorneys for Commonwealth Edison Company*

June 28, 2019

# EXHIBIT A



WC 10-101

August 11, 1978

FILED/ACCEPTED

APR 26 2010

Federal Communications Commission  
Office of the Secretary

Mr. J. M. Talens

Jim:

Attached for your information is a copy of an Illinois Commerce Commission Resolution and Certification adopted April 5, 1978, concerning its jurisdiction over pole attachments, etc. Based upon our earlier conversation, I am under the impression you do not have this.

DOCKET FILE COPY ORIGINAL

A handwritten signature in black ink, appearing to read "A. E. Ross".

A. E. Ross

A. E. Ross, Jr.

6917

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission  
on its own motion

In the matter of Public Utility pole : 78-R4  
attachments for Cable Television Services :  
pursuant to Amendment of the Communications :  
Act of 1934; set forth in Section 224(c) :  
paragraphs (1) and (2). :

RESOLUTION AND CERTIFICATION

WHEREAS, the Communications Act of 1934 has been amended to permit regulation by the Federal Communications Commission of rates, terms and conditions of Public Utility pole attachments by cable television systems to a pole, duct, conduit or right-of-way owned or controlled by the Public Utility; and

WHEREAS, the amended legislation, Section 224(c), paragraphs (1) and (2) does not apply or give authority to the Federal Communications Commission to regulate such attachments with respect to rates, terms, and conditions in a State which regulates the rates, terms, and conditions of such attachments; and

WHEREAS, pursuant to the authority vested in this Commission by virtue of the Illinois Public Utilities Act, Chapter 111-2/3, Section 1, et seq. of the Illinois Revised Statutes, every assignment, transfer, lease, mortgage, sale, or contract of franchise, licenses, permits, plant, equipment, or other property of any public utility, as defined in Section 10.3 of said Act, is subject to the review of this Commission; and

WHEREAS, this Commission does regulate the rates, terms, and conditions for pole attachments to the poles, ducts, conduits, or right-of-ways owned or controlled by public utilities, as defined above;

THEREFORE, BE IT RESOLVED AND CERTIFIED TO THE FEDERAL COMMUNICATIONS COMMISSION that the Illinois Commerce Commission of the State of Illinois does regulate rates, terms, and conditions for pole attachments to the poles, ducts, conduits, or right-of-ways owned or controlled by public utilities, as defined in the Illinois Public Utilities Act, and in so regulating such rates, terms, and conditions the State of Illinois through the Illinois Commerce Commission has the authority to consider and does consider the interests of the subscribers of cable television services in Illinois as well as the interests of consumers of utility services in Illinois.

BE IT FURTHER RESOLVED that a copy of this Resolution and Certification be forwarded to the Federal Communications Commission at 1919 "M" Street, Washington, D.C.

Adopted by this Commission this 5th day of April, 1978.

(S E A L)

(SIGNED) CHARLES P. KOCORAS

# **EXHIBIT B**



FILED/ACCEPTED

APR 26 2010

Federal Communications Commission  
Office of the Secretary

STATE OF ILLINOIS  
Illinois Commerce Commission

527 EAST CAPITOL AVENUE  
SPRINGFIELD, ILLINOIS 62706

WC 10-101  
RECEIVED

MAY 28 1985

ENFORCEMENT DIVISION

May 24, 1985

DOCKET FILE COPY ORIGINAL

Margaret Wood, Esq.  
Federal Communications Commission  
Room 6206  
1919 M Street, N.W.  
Washington, D.C. 20554

~~GRANTED~~

~~Chief, Enforcement Division~~

Dear Ms. Wood:

Enclosed is the Illinois Commerce Commission's certification that it has issued and made effective rules and regulations implementing its regulatory authority over pole attachments. This certification was requested by Howard M. Wilchins in his letter of May 15, 1985.

If you have any questions about this certification please contact Patrick Foster of our staff.

Sincerely,

Rose M. Claggett  
Chief Clerk

RMC/ja

Enclosure



WC 10-101

FILED/ACCEPTED

APR 26 2010

Federal Communications Commission  
Office of the Secretary

RECEIVED

MAY 28 1985

ENFORCEMENT DIVISION

CERTIFICATION

I, Rose M. Claggett, Chief Clerk of the Illinois Commerce Commission, hereby certify that the Illinois Commerce Commission has issued and made effective rules and regulations implementing this state's regulatory authority over pole attachments. The attached rules, which include a specific methodology for such regulation, have been duly adopted by the Commission, filed with the Illinois Secretary of State, and made publicly available in Illinois.

  
\_\_\_\_\_  
Rose M. Claggett, Chief Clerk  
Illinois Commerce Commission

## CERTIFICATE OF SERVICE

I, Timothy A. Doughty, hereby certify that on this 28<sup>th</sup> day of June 2019, a true and authorized copy of Commonwealth Edison Company's Motion to Dismiss for Lack of Jurisdiction was served on the parties listed below via electronic mail and was filed with the Commission via ECFS.

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[ecfs@fcc.gov](mailto:ecfs@fcc.gov)  
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/s/\_\_\_\_\_  
Timothy A. Doughty